

THE CARTER CENTER

NGO Submission to the U.N. Human Rights Committee on Cote d'Ivoire

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The Carter Center

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I. Reporting Organization

The Carter Center is a not-for-profit, nongovernmental organization that has helped to improve life for people in more than 80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University to advance peace and health worldwide.

The Carter Center’s Democracy Program works globally to promote democratic elections and governance consistent with human rights. The Center has monitored over 95 elections in 38 countries since 1989, forging many of the techniques now common to the field. Recognizing that democratic transitions involve much more than elections, The Carter Center also conducts long-term monitoring of political transitions and works to strengthen civil society organizations to support democratic governance. The Democracy Program’s Democratic Election Standards (DES) project aims to build consensus on standards for democratic elections, based on state obligations under public international law. The Center has developed practical tools, including the Database of Obligations for Democratic Elections (launched in 2010), which make available common criteria for assessing elections. The database consolidates more than 150 sources of international law related to human rights and elections.

The Carter Center in Cote d’Ivoire: Government authorities initially invited The Carter Center to deploy an international election observation mission in Côte d’Ivoire for presidential elections anticipated in October 2005. While delays in the peace process resulted in postponement of elections, the Center deployed a field representative in December 2007 to observe the voter identification and registration process and opened an Abidjan field office in October 2008 following an official invitation. The Center maintained a presence in the country to deploy a formal international observation mission for the October-November 2010 presidential elections and December 2011 legislative elections. The mission was conducted in accordance with the Declaration of Principles for International Election Observation and accompanying Code of Conduct adopted at the United Nations in 2005 and subsequently endorsed by more than 40 observation groups.¹ The Center released a final public report offering a comprehensive list of more than 30 recommendations for improving the

¹ <http://www.cartercenter.org/documents/2231.pdf>

electoral process with an emphasis on civil and political rights, in accordance with Côte d'Ivoire's international treaty obligations.

II. Issue Summary

This submission addresses gaps in the legal framework for elections in Côte d'Ivoire and offers recommendations for amendments and clarifications to be made in order to ensure the conduct of genuine elections that reflect the will of the people. The recommendations aim to suggest ways of ensuring that each stage of the electoral process from boundary delimitation to dispute resolution is carried out in accordance with Côte d'Ivoire's obligations under ICCPR.

The broad issues under consideration are as follows:

- Right and opportunity to vote (art. 25)
- Equal suffrage (art. 25)
- Universal suffrage (art 25)
- Right to an effective remedy, access to justice (art.2, 14)
- Equality before the law (art. 2, 26)
- Transparency and access to information (art. 19)

The Carter Center has identified several parts of the Ivorian electoral process, linked to the ICCPR articles listed above, for which clarification of the country's legal framework could lead to swift progress toward meeting international obligations. In the post-peace process Ivorian electoral context, problems have emerged in the following areas:

- Compilation of the voter list
- Boundary delimitation
- Candidacy requirements
- Campaign finance
- Dispute resolution

While much of the legal corpus in Côte d'Ivoire's reflects the principles of the ICCPR, the effectiveness of such provisions is weakened by contradictory and confusing provisions found when comparing laws, administrative decisions, and political commitments.

III. Concluding Observations

The UN Human Rights Committee has not released concluding observations on Côte d'Ivoire's initial report of March 2013.

IV. Côte d'Ivoire State Report

Côte d'Ivoire's initial report to the Human Rights Committee in March 2013 highlights a number of issues relevant to the election and the observations contained in this report.

The right to vote: The language in Article 33 of the Constitution that ensures that “suffrage is universal, free, equal, and secret.”² It also specifies instances in which the right to vote may be derogated. The following may not vote:

- Individuals convicted of a crime;
- Individuals sentenced to an unsuspended prison term for theft, fraud, abuse of trust, misappropriation of public funds, forgery and the use of forgeries, corruption and influence peddling, or indecent assault;
- Undischarged bankrupts;
- Absconders tried in absentia;
- Individuals subject to a banning order;
- Individuals whom the courts have debarred from voting, and more generally those debarred from doing so by law.

The state report does not address restrictions on the right to vote based on the nationality of ones’ parents, nor does it address the de facto restrictions on this right based on the documentary requirements of the voter registration process.

Equality between men and women: The State report (paras 97 – 179) covers a number of issues related to equality between men and women, including women in positions of authority. Overall, the State report identifies many weaknesses in the regulatory framework of Cote d’Ivoire regarding the rights of women. Some of these findings are supported by and elaborated on in this submission of The Carter Center.

Funding of political parties: the State report (paras 606-611) addresses the regulations regarding funding of political parties. However, it fails to address the need for greater transparency measures.

Right to remedy and the legal framework for elections: Paragraph 95 of the State report says that “It must be recognized that Côte d’Ivoire has equipped itself with a battery of legal instruments for the protection of persons. However, ignorance of these laws is a cause of vulnerability among populations who, with the exception of a few law practitioners, are unaware of their rights and duties. They do not react when their rights are violated owing to ignorance of the remedies available, the heavy costs and complexity of legal proceedings and, in many cases, their geographical distance from the courts.”³ Carter Center observations would support this finding in the context of elections.

V. Legal Framework

Overall, Côte d’Ivoire’s legal framework for conducting elections is satisfactory vis-à-vis its international commitments as long as civil and political rights, as well as basic freedoms, are guaranteed. Relevant articles of the Constitution of Côte d’Ivoire⁴ that correspond with principles established in the ICCPR include:

- Freedom of conscience (Art. 9)
- Freedom of expression (Art. 10)
- Freedom of assembly and freedom to demonstrate (Art. 11)

² Cote d’Ivoire Initial Report to the UN Human Rights Committee, March 2013, para. 659

³ CDI STATE 93

⁴ Law no. 2000-513 of Aug. 1, 2000

- Freedom of association (Art. 13)
- Right to vote (Art. 33)

Nevertheless, certain legal provisions are too vague. Political actors frequently exploited legal ambiguities during the electoral process. Importantly, amendments made to the legal framework following the signing of the Ouagadougou Peace Agreement of 2007 were applied for presidential elections but not extended to legislative and local elections. There was also a lack of consistency in the role accorded to the Constitutional Council in managing postelection appeals in the case of the presidential election compared with the legislative elections.

The Center offers recommendations below for provisions that could be improved or clarified. Those recommendations relate specifically to the following articles of the ICCPR:

- Article 2 (equality before the law)
- Article 14 (right to a fair and public hearing)
- Article 19 (transparency and access to information)
- Article 25 (right to vote; equal suffrage; universal suffrage; right and opportunity to be elected; right and opportunity to participate in public affairs)
- Article 26 (freedom from discrimination & equality before the law)

The Côte d'Ivoire peace process led to the gradual establishment of a complex legal framework in which constitutional, legal, and regulatory provisions coexisted alongside the contents of successive political agreements. The OPA led to a series of detailed amendments to the ordinary legal framework governing the presidential election, especially with reference to the role of the United Nations as an international certifier. The overall legal architecture was thus based on a standard legal foundation into which a series of provisions exclusive to the post-crisis elections were inserted. This architecture coexisted with and depended on negotiated provisions contained within political agreements or deriving from them.

The heterogeneity of the legal framework caused genuine difficulties, especially during the process of compiling the voter list ahead of the 2010-2011 elections. The complex and ambiguous nature of the legal framework is evident in the number of relevant texts:

Legal Framework for Holding Presidential Elections

- Law no. 2000-513 of Aug. 1, 2000, on the Constitution of the Republic of Côte d'Ivoire
- Law no. 2000-514 of Aug. 1, 2000, on the electoral law as amended by decree no. 2008-133 of April 14, 2008, on amendments to the electoral law for the post-crisis elections
- Organic law no. 2001-303 of June 5, 2001, establishing the organization and functioning of the Constitutional Council
- Law no. 2004-642 of Dec. 14, 2004, amending law no. 2001-634 of Oct. 9, 2001, on the composition, organization, powers, and functioning of the Independent Electoral Commission
- Decision no. 2005-06/PR of July 15, 2005, pertaining to the Independent Electoral Commission
- Decision no. 2005-11/PR of Aug. 29, 2005, pertaining to the Independent Electoral Commission
- Decision no. 2006-12/PR of July 29, 2006, on conferring the powers on the Independent Electoral Commission to propose amendments, in exceptional circumstances, to the electoral law
- Decision no. 2008-15/PR of April 14, 2008, on special modalities for amendments to the electoral law

- Decree no. 2008-243 of Sept. 4, 2008, establishing the technical specifications of electoral materials and documents and determining the quantity of posters and ballot papers
- Decree no. 2008-244 of Sept. 4, 2008, establishing the technical specifications and the modalities of instituting voter cards
- Decree no. 2008-245 of Sept. 4, 2008, determining the modalities pertaining to the conduct of voting operations
- Decree no. 2008-246 of Sept. 4, 2008, determining the conditions for compiling the list of agreed printers for the printing of electoral documents
- Decree no. 2010-277 of Oct. 12, 2010, determining the modalities of voting for Ivorians abroad
- Decree no. 2010-278 of Oct. 12, 2010, on the organization and functioning of polling stations
- Decree no. 2010-279 of Oct. 12, 2010, establishing the number of polling sites and stations in Côte d'Ivoire and abroad
- Decree no. 2010-280 of Oct. 12, 2010, on the appointment of officials, state agents, and personnel for the post-crisis elections
- Decree no. 2010-281 of Oct. 12, 2010, establishing the date of the first round of the election for the president of the republic
- Decree no. 2010-282 of Oct. 12, 2010, establishing the duration of the electoral campaign for the election of the president of the republic

Supplemental Legal Framework Pertaining to the Process of Identification and Voter Registration

The texts composing the legal framework cover identification, registration, mobile courts, and the reconstitution of civil status registries. They are especially numerous as they cover electoral matters, nationality, and the functioning of the civil registry. The most relevant texts are as follows:

- Law no. 61-415 of Dec. 14, 1961, on the Ivorian Nationality Code amended by law no. 72-852 of Dec. 21, 1972
- Law no. 64-374 of Oct. 7, 1964, pertaining to the civil registry, amended by law no. 83-799 of Aug. 2, 1983, and law no. 99-691 of Dec. 14, 1999
- Law no. 2002-03 of Jan. 3, 2001, pertaining to the identification of people and to the residence of foreigners in Côte d'Ivoire, amended by law no. 2004-303 of May 3, 2004
- Decree no. 2004-05 of Jan. 6, 2001, on the creation of the National Commission on the Supervision of Identification
- Decision no. 2005-05/PR of July 15, 2005, establishing the framework for the identification of people and the residence of foreigners in Côte d'Ivoire
- Decree no. 2007-647 of Dec. 20, 2007, on conditions for the institution, acquisition, and format of the national identity card
- Decree no. 2008-04 of Jan. 13, 2008, on naming the company Sagem Security as the technical operator
- Decree no. 2008-135 of April 14, 2008, determining the modalities of collaboration between the National Statistics Institute and Sagem Security under the responsibility and authority of the Independent Electoral Commission
- Decree no. 2008-136 of April 14, 2008, determining the modalities of compiling the new voter list
- Decision no. 2008-15/PR of April 14, 2008, on special modalities for amending the electoral law
- Circular no. 001/PM/CAB of Oct. 21, 2008, pertaining to the operation for identification of the population and voter registration, supplemented by rider no. 1

- Order no. 2009-268 of Aug. 25, 2009, establishing the deadline for the publication of the provisional voter list
- Order no. 2009-269 of Aug. 25, 2009, establishing the deadline for the distribution of voter cards
- Decree no. 2009-270 of Aug. 25, 2009, determining the time frame for the compilation of the voter list

Other Relevant Texts Framing the Holding of Presidential Elections

- Law no. 93-668 of Aug. 9, 1993, pertaining to political parties and political organizations
- Decree no. 99-551 of Aug. 11, 1999, determining the modalities of applying law no. 93-668 of Aug. 9, 1993, pertaining to political parties and organizations
- Law no. 2001-494 of Sept. 10, 2004, pertaining to the use of public funds to finance political parties and organizations and candidates for the presidential election and the repeal of law no. 99-694 of Dec. 14, 1999
- Law no. 2004-643 of Dec. 14, 2004, on the legal regulation of the press
- Law no. 2004-644 of Dec. 14, 2004, on the legal regulation of audiovisual communications
- Decree no. 2006-196 of June 28, 2006, on the organization and functioning of the National Press Council
- Decree no. 2006-278 of June 23, 2006, on the organization and functioning of the National Audiovisual Communication Council

VI. Human Rights Committee General Comments

A number of General Comments of the Human Rights Committee are relevant to the issues addressed in this submission. These include:

- General Comment No. 18 on non-discrimination (A/45/40(VOL.I)(SUPP))
- General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25) (CCPR/C/21/Rev.1/Add.7)
- General Comment No. 32: Article 14: Right to Equality before Courts and Tribunals and to Fair Trial (CCPR/C/GC/32)
- General Comment No. 34: Article 19: Freedoms of opinion and expression (CCPR/C/GC/34)

VII. Other UN Body Recommendations

No recent UN reports have focused on the specific electoral issues in of Côte d'Ivoire addressed in this submission. The Report of the Independent Expert on the situation of human rights in Côte d'Ivoire, Doudou Diene,⁵ submitted in January 2014, touched broadly on the effect of political polarization and stalled dialogue on the electoral process as 2015 presidential elections approach. The report also noted lack of equality in terms of access to justice.

The CEDAW Committee provided Concluding Observations on the State Report of Cote d'Ivoire in 2011.⁶ These observations included detailed recommendations regarding the participation of women in the public affairs and the political life of the nation.

⁵ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/101/54/PDF/G1410154.pdf?OpenElement>

⁶ CEDAW/C/CIV/CO/1-3

VIII. Recommended Questions

The following questions address the development and reform of Côte d'Ivoire's legal and electoral systems following the Carter Center's election observation mission between 2007 and 2011.

(1) Inconsistencies in and omissions from the voter list were serious concerns during the 2010 and 2011 elections. As both Article 25 of the ICCPR and the Constitution of Côte d'Ivoire guarantee every citizen the right and opportunity to vote, what steps has the government taken to develop a comprehensive and accurate voter list adhering to international and domestic obligations?

(2) Article 25 of the ICCPR establishes the universality and equality of the vote. The number of voters per electoral district in Côte d'Ivoire varies widely, with individual parliamentarians representing anywhere between an estimated 2,300 (Kabadougou) to over 106,000 eligible voters (Abidjan). How has the government committed to ensuring that each citizen's vote holds equal weight, specifically given these discrepancies?

(3) Article 14 of the ICCPR recognizes the right to a fair and impartial hearing as a fundamental right. The 2010-11 elections were marred by confusion surrounding the procedure for filing appeals. What clarifications and/or amendments have been made to the appeals process since the 2011 elections?

(4) Articles 2 and 26 of the ICCPR establish equality before the law and the right to an effective remedy. The 2010-11 elections saw repeated infractions of criminal and electoral law with impunity by multiple parties, with limited legal recourse for those affected. What enforcement mechanisms will the Government develop to ensure adherence to electoral laws regarding campaigning (including instances of pre-campaigning, vote buying, and violence)?

(5) Article 25 of the ICCPR establishes citizens' right to take part in the conduct of public affairs, directly or through freely chosen representatives. What progress has Côte d'Ivoire made on ensuring that candidates from under-represented groups, specifically women, have an equal opportunity to participate in the electoral process?

(6) Both Article 25 of the ICCPR and Articles 48 and 49 of the Ivorian Electoral Code stipulate that all citizens eligible to vote can run in elections, contingent on specific residency requirements. However, an additional Ivorian provision limits the eligibility of presidential candidates to those of Ivorian descent and parentage, a clause linked to controversy and conflict in past elections. What steps will be taken to reconcile the provisions of the Electoral Code and bring them fully into alignment with the ICCPR?

IX. Suggested Recommendations

The following recommendations were developed during The Carter Center's international election observation mission in Côte d'Ivoire between 2007 and 2011. A complete report is available at: http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/cote-diviore-2010-2011-elections-final-rpt.pdf.

Universal and Equal Suffrage (Art. 25)

Article 25 of the ICCPR establishes universal and equal suffrage as fundamental political rights. Article 33 of the Ivorian constitution reflects these principles, stipulating: “Suffrage is universal, free, equal, and secret.” During the 2010 presidential and 2011 legislative elections, The Carter Center observed numerous problems with the registration of voters and compilation of the voter list that compromised the ability of all eligible voters to vote. The Center assessed the voter registration process as minimally acceptable according to the technical capacities, financial limitations, and administrative ambitions of the time. Article 3 of the Electoral Code states: “Ivorian nationals of both sexes and persons who have acquired Ivorian nationality by naturalization or marriage, aged 18 and over, registered on the electoral role and in possession of their civil and civic rights, are electors...”⁷ Inclusion on the voter list of all individuals with a constitutional right to vote should be ensured. Specific recommendations to improve the accuracy of the voter list in order to ensure universal and equal suffrage include:

(1) *The Government of the Republic of Côte d’Ivoire and the National Assembly should draft a permanent legal framework for compiling the voter list in line with the specific and administrative provisions for establishing the population registry. Inconsistencies between conflicting legislation should be resolved.*

In general, inconsistencies among the OPA, Constitution, Electoral Code, and current practice should be resolved. International best practice establishes the goal of consolidating all legislation governing the electoral process in a single body of laws to avoid confusion. When electoral legislation exists at different levels of law, such legislation should not conflict and regulations should be clear and precise. The compilation of a complete and accurate voter list in Côte d’Ivoire ahead of 2010 elections was challenged by conflicting legislation. The OPA accords voter status (and Ivorian nationality) to those registered on the voter list of 2000. However, the OPA does not provide for officials to distinguish between petitioners at the time of registration according to whether or not they appear on the voter list of 2000. In addition, the documentation requirements for voter registration were established by decree and subsequently clarified by circular in order to take into account numerous special cases resulting either from the law or the administrative context.⁸ The circular also discontinued the obligation to present a certificate of nationality for petitioners born before April 1, 1990, who did not appear on the voter list of 2000 (this was the standard identification). However, it retained the obligation for those born between April 1, 1990, and March 31, 1992, i.e., people aged 16 to 18 years. This amendment to the legal framework was implicitly based on a decision of the Permanent Consultation Framework.⁹ However, strictly speaking, it constituted an amendment to the regulatory framework by means of an administrative act.¹⁰

⁷ Cote d’Ivoire Initial Report to the UN Human Rights Committee, March 2013, para. 7, 109

⁸ Decree no. 2007-647 of Dec. 20, 2007, on conditions for the institution, acquisition, and format of the national identity card, and decree no. 2008-136 of April 14, 2008, determining the modalities of establishing the new voter list. See also circular no. 001/PM/CAB of Oct. 21, 2008, pertaining to the operation for identification of the population and voter registration, supplemented by rider no. 1.

⁹ Final communication of the second meeting of the Permanent Consultative Framework, of Jan. 24, 2008: “The members of the Permanent Consultative Framework have decided to accelerate the electoral process, especially through: the facilitation of registration in the voter lists of new adults and of Ivorians who have benefited from supplemental judgments and birth certificates issued during the operations of the mobile courts currently underway.” [unofficial translation]

¹⁰ The administrative circular format does not appear to be the most appropriate inasmuch as decree no. 2007-647 of Dec. 20, 2007, pertaining to the conditions for the institution, acquisition, and format of the national identity card, was not amended and envisaged the requirement to provide a certificate of nationality.

(2) *The Government of the Republic of Côte d'Ivoire and the National Assembly should continue efforts to develop a comprehensive civil status registry, including access for all citizens to personal records.*

An accurate voter list depends on the appropriate management of the civil status registry. Steps should be taken immediately to register the significant segment of the population unable to register for the 2010-11 elections, many of whom still lack identity documents. The implementation of mechanisms to enable data cleansing and updating is vital to ensure the sustainability of the investment. This is especially important in relation to data on population movements and deaths.

(3) *Following compilation of an updated voter list, Côte d'Ivoire should reassess current electoral boundaries using objective legal criteria in order to ensure equality of representation.*

General Comment 25 to the ICCPR, as well as precedent established in *Istvan Matyas v Slovakia* (2002), make clear that equal suffrage as enshrined in Article 25 requires that constituency boundaries we drawn so that voters are represented in the legislature on as equal a basis as possible.¹¹ The design of Côte d'Ivoire's constituent boundaries perpetuates significant distortions in the representative value of each seat. In the 2011 parliamentary elections, a seat in constituency 122 in Kabadougou represented an electorate of 2207 eligible voters, while a seat in constituency 41 in Abidjan represented 106,834 eligible voters. The distribution of seats favors the northern regions with low population density and discriminates against urban areas. This is particularly true in Abidjan, which represents almost 30 percent of the electorate but holds only 10 percent of the seats. The government and future electoral management bodies also should endeavor to make transparent decisions based on legal and objective criteria.

Right to a Fair & Public Hearing and Right to an Effective Remedy (Art. 2, Art. 14)

The elections of 2010 and 2011 yielded numerous appeals related to exclusion from the voter list and election results. While legal challenges to the conduct or results of elections should be considered a test of a system's strength, rather than a sign of its weakness, the handling of disputes must be consistent and transparent. Specific recommendations regarding the appeals process include:

(4) *The Constitutional Council and the Independent Electoral Commission (CEI) should develop specific proposals for clarifying and developing the legal provisions concerning the dispute resolution process.*

According to a 2005 survey by the National Statistics Institute, "65 percent of respondents thought that the Ivorian justice system was manipulated by political and economic interests, while 50 percent believed the judicial system to be unfair and inaccessible to disadvantaged sectors of society."¹²

Clarifying the procedures for lodging appeals would profoundly increase voter confidence.

Inconsistencies in existing provisions governing appeals and their respective deadlines, material errors, and preservation of electoral documents and ballot papers undermined the legitimacy of rulings by local officials and the Constitutional Council. Delays in releasing rulings on appeals frustrated appellants and led to more confusion. As stated in General Comment 32, a fair hearing should be

¹¹ UNHRC, General Comment 25, para. 21; UNHRC, *Istvan Matyas v Slovakia* (2002), 2.2

¹² Cote d'Ivoire Initial Report to the UN Human Rights Committee, March 2013, para. 95

expeditious.¹³ Effective redress requires disputes to be dealt with in a timely manner. Moving forward, the Constitutional Council and the CEI should aim for swift consideration of electoral appeals to ensure timely publication and dissemination of its decisions.

(5) For the next electoral cycle, the CEI should produce and publicize specific informational tools intended for candidates, political parties, courts, and citizens on the subject of electoral appeals and their characteristics and modalities in order to promote equal access to legal redress.

Article 14 of the ICCPR requires states to make public judicial decisions, findings, evidence, and reasoning. The UN Economic and Social Council has stated that complainants should be informed of the procedure for filing complaints and the timeframe for resolution.¹⁴ As noted in section IV, Côte d'Ivoire's report to the HRC acknowledges voters' lack of information regarding the country's laws and the legal remedies available to them.¹⁵

Throughout the 2010-11 elections, The Carter Center noted numerous instances when local commissions did not publish the list of appeals as stipulated by the electoral law, thus making it difficult for those filing them to find information on the progress of their cases. Individuals should be informed of the courses of action at their disposal in the event their appeals are denied.

Genuine Elections (Art. 25)

Article 25 of the International Convention on Civil and Political Rights specifies that elections be genuine, free from corruption and internal or external interference. During the 2010-11 elections, reports of campaigning outside of the designated campaign period, use of violence by multiple parties during the second round of voting (particularly in the Abidjan region), the practice of vote buying (noted in Fromager, Sud Bandama, and Savanes), and inflammatory media statements threatened to undermine the legitimacy of the democratic process. Even when violations of election laws were reported to Ivorian authorities, little action was taken. Recommendations to ensure the integrity of the campaign period include:

(6) Prior to setting election dates, the CEI should implement an effective framework and timeline for electoral campaigns that respects the equal right and opportunity of all citizens to be elected. Guidelines should address issues of political party organization and funding.

UN sources indicative of state practice indicate the importance of allowing adequate time to implement all parts of the electoral process, including campaigning.¹⁶ To guarantee that all candidates are able to compete on a level playing field, extending the official campaign periods should be considered alongside measures to penalize political campaign activities prior to the start of the official campaign period ("pre-campaigning.") While pre-campaigning is banned under Ivorian electoral law,¹⁷ the month preceding the presidential election saw widespread disregard for this provision on the part of many candidates without penalty. A number of complaints were filed regarding pre-

¹³ UNHRC, General Comment 32, para. 27

¹⁴ UN Economic and Social Council; UN document E/CN.4/2000/62; para. VIII.12.a

¹⁵ Cote d'Ivoire Initial Report to the UN Human Rights Committee, March 2013, para. 93

¹⁶ UN, Handbook on Human Rights and Elections, para. 75 and 108

¹⁷ Art. 32, electoral law, "All offenders (...) shall be subject to penalties of between eleven days and two months in prison and a fine of between 50,000 and 360,000 CFA francs or only one of these two punishments."

campaigning in 2010-11, resulting in the Constitutional Council's invalidation of certain election results.

(7) Côte d'Ivoire should review the legal and administrative framework of political party activities with a view to ensuring equitable distribution and transparent use of public funding.

While public funding for campaigns and political parties is generally considered to be acceptable under international standards, it must be distributed in an objective, fair, and reasonable manner to ensure that no discrimination takes place – particularly when an incumbent has easier access to state funds. Domestically, Law no. 2004-494 of Sept. 10, 2004, governs the use of public funds for financing political parties and organizations and also presidential election candidates. In addition, the law implemented a mechanism for reimbursing presidential candidates for their campaigns. The electoral law prohibits the use by candidates and their staff of government vehicles or any form of state-owned transport.¹⁸ However, there are no regulations placing a ceiling on expenses or checks on the sources of funding for campaigns. Questionable use of state funds and vehicles for campaign activities, including in the pre-campaign period, was widely reported.

With the aim of protecting the integrity of the electoral process and guaranteeing fair competition for all candidates, Ivorian authorities should make campaign financing more transparent by setting clear standards for disclosure, spending limits, and scrutiny of expenses, and determining procedures for implementation.

Right to be Elected (Art. 25)

Article 25 of the ICCPR establishes citizens' right and opportunity to participate in public life, either through elected representation or running for office. In Côte d'Ivoire, historic inequalities and nuances of the political and legal systems act as barriers to equal opportunity to participate and be elected. Recommendations regarding candidacy requirements include:

(8) Côte d'Ivoire should accede to relevant regional instruments and implement positive measures to advance women's participation and representation as mandated by international and regional obligations.

At the international level, Côte d'Ivoire has ratified a number of agreements regarding gender equality. The principle is also enshrined in the first Constitution and reinforced in the Constitution of Aug. 1, 2000 and in legislation. Yet despite the government's increased focus on women's rights since the 2011 election, gender inequality persists. Although the 2010 presidential election saw Jacqueline Lohoues-Oble stand as the country's first female presidential candidate, the percentage of female legislators at all levels of the political system remains quite low. Given the limited number of female candidates fielded by political parties, the introduction of incentives to support women's participation in the electoral process requires special temporary measures be taken. Public support would bolster parties' inclusion of women in their decision-making structures, selection of female candidates, and successful election of women to leadership posts.

(9) Review eligibility rules for candidates to ensure equal opportunity to be elected is ensured and no group is discriminated against on the basis of origin or other category.

¹⁸ Art. 30, electoral law

Article 25 of the ICCPR and several other international treaties establish that freedom from discrimination and equality before the law on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation, birth, or other status. The conditions for holding office contained within the Electoral Code of Côte d'Ivoire are in conflict, even following the 2011 election. As the country's initial report to the HCR affirms, "Articles 48 and 49 of the Electoral Code stipulate that any Ivorian qualifying as a voter can be authorized to stand in presidential elections in the Republic of Côte d'Ivoire subject to the conditions laid down by the Constitution." However, an additional provision stipulates that candidates in presidential elections must be of Ivorian origin, have been born to a father and mother who are themselves of Ivorian origin, have been continuously resident in Côte d'Ivoire for the whole of the five years preceding the ballot and not make use of any other nationality. The provision thus was cited as a reason to disqualify Alassane Ouattara's candidacy, although he received a waiver of the stipulation during the election of 2010.